

THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
W. R. GRACE & CO., et al.,¹) Case No. 01-1139 (AMC)
) (Jointly Administered)
Reorganized Debtor.)
Re: Docket No.: 33259

**MOTION TO SHORTEN NOTICE PERIOD AND SCHEDULE HEARING ON THE
REORGANIZED DEBTOR'S EMERGENCY MOTION FOR AN ORDER FINDING
THAT RUNE KRAFT IS IN CONTEMPT OF THIS COURT BY HAVING WILLFULLY
AND KNOWINGLY VIOLATED THIS COURT'S CONFIRMATION ORDER AND ITS
ORDER OF AUGUST 26, 2021 [DOCKET NO. 33256] BY FILING A MOTION FOR AN
ARTICLE III COURT'S REVIEW OF THIS COURT'S AUGUST 26 ORDER**

W. R. Grace & Co. (the "Reorganized Debtor") in the above-captioned case hereby files this motion to shorten (the "Motion to Shorten") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), scheduling a hearing and shortening the notice period with respect to *The Reorganized Debtor's Emergency Motion for an Order Finding that Rune Kraft is in Contempt of This Court By Having Willfully and Knowingly Violated This Court's Confirmation Order and Its Order of August 26, 2021 [Docket No. 33256] By Filing a Motion for an Article III Court's Review of This Court's August 26 Order* (the "Emergency Motion"), filed concurrently herewith.² In support of this Motion to Shorten, the Reorganized Debtor respectfully states as follows.

RELIEF REQUESTED

1. By this Motion, the Reorganized Debtor requests, pursuant to section 105(a) of the Bankruptcy Code and Local Rule 9006-1(e), that the Court shorten the notice required for a

¹ W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc., or "Grace") is the sole remaining "Reorganized Debtor," and Case No. 01-1139 is the sole remaining open chapter 11 case (the "Grace Chapter 11 Case").

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

hearing on the Emergency Motion so that the Emergency Motion may be heard on September 8, 2021 at 10:00 a.m. (prevailing Eastern Time) or as soon thereafter as is convenient for the Court.

JURISDICTION

2. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure the Reorganized Debtor consents to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 9006-1(e).

BACKGROUND

4. On July 13, 2021, the Reorganized Debtor filed the *Motion for an Order: (I) Enforcing Against Rune Kraft the Plan and Confirmation Claim Preclusion Bars to Post-Bar Date Assertion of Administrative Expense Claims; and (II) Compelling Rune Kraft to Dismiss With Prejudice His Complaint Against the Reorganized Debtor in the Matter Captioned Kraft V. Chevron Corp. et al., Case No. 2:21-CV-00575-DJH (the “Arizona-Chevron Litigation”)* [Docket No. 33242] (the “Motion”).

5. On July 16, 2021, Rune Kraft (“Kraft”) filed the *Response to Motion for an Order: (I) Enforcing Against Rune Kraft the Plan and Confirmation Claim Preclusion Bars to Post-Bar*

Date Assertion of Administrative Expense Claims; and (II) Compelling Rune Kraft to Dismiss With Prejudice His Complaint Against the Reorganized Debtor in the Matter Captioned Kraft V. Chevron Corp. et al., Case No. 2:21-CV-00575-DJH (the “Arizona-Chevron Litigation”) [Docket No. 33245] (the “Response”).

6. On August 3, 2021, the Reorganized Debtor filed the *Reply in Support of the Reorganized Debtor’s Motion to Enforce the Confirmation Order Against Rune Kraft* [Docket No. 33250] (the “Reply”).

7. On August 26, 2021, a telephonic hearing on the Motion was held before the Honorable Ashely M. Chan.

8. On August 26, 2021, the Court entered the *Order* [Docket No. 33256] approving the Motion.

9. On August 27, 2021, Kraft filed his *Motion for the Article III Court to Review the Order Issued by the Article I Court* in the United States District Court for the District of Arizona (the “AZ District Court”) [AZ Ct. DI 73] (the “Arizona Article III Motion”). A copy of the Arizona Article III Motion is attached to the Emergency Motion.

BASIS FOR RELIEF

10. Local Rule 9006-1(c)(i) provides that unless the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) or the Local Rules state otherwise, “all motion papers shall be filed and served in accordance with Local Rule 2002-1(b) at least fourteen (14) days prior to the hearing date.” Local Rule 9006-1(e) provides in pertinent part that “[n]o motion will be scheduled on less notice than required by these Local Rules or the Fed. R. Bankr. P. except by order of the Court, on written motion . . . specifying the exigencies justifying shortened notice.”

11. In support of this Motion to Shorten, the Reorganized Debtor represents that the exigencies justify shortened notice of the Emergency Motion.

12. Kraft's filing of the Arizona Article III Motion violates the Order which prohibits further filings in the AZ District Court other than pleadings to dismiss the Reorganized Debtor from that action.

13. A response to the Arizona Article II Motion is due in the AZ District Court on or by September 10, 2021 so immediate action on this Emergency Motion is required.

14. Accordingly, for the foregoing reasons and those more fully set forth in the Motion, cause exists for the Court to consider the relief requested in the Emergency Motion on an expedited basis, and the Reorganized Debtor requests that the Court schedule a hearing on the Emergency Motion on September 8, 2021 at 10:00 a.m. (Eastern Time) or as soon thereafter as is convenient for the Court.

COMPLIANCE WITH LOCAL RULE 9006-1(e)

15. Before filing this Motion to Shorten, counsel to the Reorganized Debtor notified Rune Kraft and the United States Trustee (the "UST") regarding this request for relief. The UST has no objection to the request for shortened time. The Reorganized Debtor's notification to Mr. Kraft and his response are attached hereto marked as **Exhibit B**.

NOTICE

16. This Motion to Shorten and the Emergency Motion will be served by e-mail, overnight mail, or facsimile upon: (i) the Office of the United States Trustee; (ii) Counsel for the WRG Asbestos PI Trust; (iii) Counsel for the Asbestos PI Future Claimants Representative; (iv) Counsel for the Asbestos PD Future Claimants Representative; (v) Counsel for the WRG Asbestos PD Trust (7A); (vi) Counsel for the WRG Asbestos PD Trust (7B); (vii) Counsel for the

CDN ZAI PD Claims Fund; (viii) those parties that requested service and notice of papers in accordance with Fed. R. Bankr. P. 2002; and (ix) Rune Kraft. The Reorganized Debtor submits that no other or further notice need be provided.

NO PRIOR REQUEST

17. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, the Reorganized Debtor respectfully requests the entry of an order, substantially in the form attached hereto as **Exhibit A**, and for such other and further relief as may be appropriate.

Dated: August 31, 2021

THE LAW OFFICES OF ROGER HIGGINS, LLC
Roger J. Higgins
516 N. Ogden Ave.
Suite 136
Chicago, IL 60642
Telephone: (312) 666-0431

and

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

Laura Davis Jones (Bar No. 2436)
James E. O'Neill (Bar No. 4042)
919 North Market Street, 17th Floor
P.O. Box 8705
Wilmington, DE 19899-8705
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

Co-Counsel for the Reorganized Debtor